



UNITED STATES PATENT AND TRADEMARK OFFICE

Wm

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,523	01/28/2002	Franz Winter	SBV-09918	5403

7590 10/16/2003

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER

SAINT SURIN, JACQUES M

ART UNIT	PAPER NUMBER
----------	--------------

2856

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/058,523

Applicant(s)

WINTER, FRANZ

Examin r

Jacques M Saint-Surin

Art Unit

2856

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is responsive to the amendment of 07/22/03.

Response to Arguments

2. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 5-7, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US Patent 5,391,887).

Regarding claims 1 and 6, Staff ('400) discloses a method for measuring gaps and hollow spaces (Fig. 37 shows the ultrasonic (UT) through transmission, integral with the cup lid are a series of drilled holes 180, see: col. 20, lines 48-53), the method which comprises:

introducing a filler element into one of a gap and a hollow space having a given dimension (a container 188 is attached to the outside of the cup type lid 8, as shown, and both the container 188 and the lid 8 are filled with UT coupling fluid 190, see: col. 20, lines 66-68 see: also col. 19, lines 64-68) and col. 20, line 1); and

measuring the given dimension (the track 44 also provides defect calibration for various flaw sizes and depths, see: col. 11, lines 18-19) of the one of the gap (holes

Art Unit: 2856

180) and hollow space (outer wall surface 182 and inner wall surface 184) by using an ultrasonic testing unit (the defect calibration standards are scanned with the transducers 194 at an elevation above the weld zone 10, the weld zone is then inspected using both ultrasonic through transmission and ultrasonic reflection inspection techniques from both directions, see: Figs. 10 and 37, col. 21, lines 4-11 and col. 21, line 3 and col. 20, lines 48-51) coupled to filler element (weld filler material providing the weld 10 for securing the dome lid or cap 6 and cup-lid 8, see: col. 8, lines 32-34 and Figs 10 and 37). Regarding claim 6, as discussed above, it is rejected for the reasons set forth for claim 1.

Regarding claim 2, Murray, Jr. discloses a weld seal 10 between the cup lid 8 and body 4 to meet the limitations of sealing strip; and also (weld filler material providing the weld 10 for securing the dome lid or cap 6 and cup-lid 8, see: col. 8, lines 32-34). Furthermore, Murray, Jr. discloses Reflection ultrasonic transmission inspection can be provided through an immersion technique whereby the interior of cup lid 8 is filled with a coupling liquid, and by keying to the indexed track 44 on the interior sidewall of the cup 8, such inspection can be carried out (col. 19, lines 64-68 and col. 20, line 1).

Regarding claim 5, Murray the track 44 also provides defect calibration for various flaw sizes and depths (see: col. 11, lines 18-19) and the defect calibration standards are scanned with the transducers 194 at an elevation above the weld zone 10, the weld zone is then inspected using both ultrasonic through transmission and

ultrasonic reflection inspection techniques from both directions (see: Figs. 10 and 37, col. 21, lines 4-11, col. 21, line 3 and col. 20, lines 48-51).

Regarding claim 7, Murray shows the holes 180 are plugged with a rod 200, see: col. 21, line 22).

Regarding claims 10 and 12, Murray discloses the weld filler material is post weld heat treated for obtaining a weld having substantially the same physical, thermal, and electrical characteristics as the material of the body and lid (see: abstract) to meet the limitations of the filler element has a dimensionally unstable body and the expansion element.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US Patent 5,391,887) in view of Ferrara et al. (US Patent 5,462,059).

These claims differ from Murray, Jr. et al. by reciting using a measurement process as is used for a medical, intravascular ultrasonic measurement.

Ferrara et al. ('059) discloses the imaging signals are produced from a conventional ultrasound diagnostic apparatus or the like, and a single transducer can be used. Ferrara further discloses the imaging signals used comprise pulses of ultrasonic beams transmitted by the transducer as well as the reflections of the pulsed

Art Unit: 2856

beams received by said transducer (see: col. 3, lines 48-53). It would have been obvious to one having ordinary skill in the art at the time of the invention to be motivated to recognize to utilize in Murray the techniques of Ferrara because it would provide a reliable inspection of the intravascular measurement in a well known manner.

7. Claims 8-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable Murray, Jr. (US Patent 5,391,887) in view Grahn (US Re37065).

These claims differ from Murray by reciting the filler element is an elastomeric element, a plastomeric filler element and a balloon element. Note that Murray, Jr. discloses the weld filler material is preferred to be copper-beryllium alloy (col. 16, lines 54-55. Murray further teaches in col. 17, lines 1-5 that these materials were further chosen.... is a well characterized alloy exhibiting an elastic modulus, a thermal conductivity and a melting temperature. Murray does not specifically disclose the filler element is a plastomeric filler element and a balloon element as recited in claim 10. Grahn ('065) discloses this deformable medium comprise an elastomer and for purposes of convenience, the term "elastomer" will be employed in this discussion, although it will be understood that other materials, such as gels, rubber compounds, plastics, liquid-filled bags or balloons, etc., may be employed. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ in Murray the techniques of Grahn because inasmuch as the references disclose these elements as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques M Saint-Surin whose telephone number is (703) 308-3698. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2856

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.


Jacques M. Saint-Surin
September 30, 2003


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800